

§ 405.1128

sends a case to the MAC with a recommended decision, a notice is mailed to the parties at their last known address. The notice tells them that the case was sent to the MAC, explains the rules for filing briefs or other written statements with the MAC, and includes a copy of the recommended decision.

(d) *Filing briefs with the MAC when ALJ issues recommended decision.* (1) Any party to the recommended decision may file with the MAC briefs or other written statements about the facts and law relevant to the case within 20 calendar days of the date on the recommended decision. Any party may ask the MAC for additional time to file briefs or statements. The MAC will extend this period, as appropriate, if the party shows that it has good cause for requesting the extension.

(2) All other rules for filing briefs with and obtaining evidence from the MAC follow the procedures explained in this subpart.

(e) *Procedures before the MAC.* (1) The MAC, after receiving a recommended decision, will conduct proceedings and issue its decision or dismissal according to the procedures explained in this subpart.

(2) If the MAC determines that more evidence is required, it may again remand the case to an ALJ for further inquiry into the issues, rehearing, receipt of evidence, and another decision or recommended decision. However, if the MAC decides that it can get the additional evidence more quickly, it will take appropriate action.

[70 FR 11472, Mar. 8, 2005, as amended at 74 FR 65338, Dec. 9, 2009]

§ 405.1128 Action of the MAC.

(a) After it has reviewed all the evidence in the administrative record and any additional evidence received, subject to the limitations on MAC consideration of additional evidence in § 405.1122, the MAC will make a decision or remand the case to an ALJ.

(b) The MAC may adopt, modify, or reverse the ALJ hearing decision or recommended decision.

(c) The MAC mails a copy of its decision to all the parties at their last known addresses. For overpayment cases involving multiple beneficiaries where there is no beneficiary liability

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the MAC may choose to send written notice only to the appellant. In the event the decision will result in a payment to a provider or supplier, the Medicare contractor must issue any electronic or paper remittance advice notice to that provider or supplier.

§ 405.1130 Effect of the MAC's decision.

The MAC's decision is final and binding on all parties unless a Federal district court issues a decision modifying the MAC's decision or the decision is revised as the result of a reopening in accordance with § 405.980. A party may file an action in a Federal district court within 60 calendar days after the date it receives notice of the MAC's decision.

[74 FR 65338, Dec. 9, 2009]

§ 405.1132 Request for escalation to Federal court.

(a) If the MAC does not issue a decision or dismissal or remand the case to an ALJ within the adjudication period specified in § 405.1100, or as extended as provided in this subpart, the appellant may request that the appeal, other than an appeal of an ALJ dismissal, be escalated to Federal district court. Upon receipt of a request for escalation, the MAC may—

(1) Issue a decision or dismissal or remand the case to an ALJ, if that action is issued within the latter of 5 calendar days of receipt of the request for escalation or 5 calendar days from the end of the applicable adjudication time period set forth in § 405.1100; or

(2) If the MAC is not able to issue a decision or dismissal or remand as set forth in paragraph (a)(1) of this section, it will send a notice to the appellant acknowledging receipt of the request for escalation and confirming that it is not able to issue a decision, dismissal or remand order within the statutory time frame.

(b) A party may file an action in a Federal district court within 60 calendar days after the date it receives the MAC's notice that the MAC is not able to issue a final decision, dismissal order, or remand order unless the party is appealing an ALJ dismissal.

[70 FR 11472, Mar. 8, 2005, as amended at 74 FR 65338, Dec. 9, 2009]